

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

FILED
CLERK OF COURT

SEP 29 P 12: 53

WILLIAM NORTON,
Plaintiff,

v.

TOWN OF WHITMAN,
JAMES STONE, JR., MATTHEW POORE,
STEPHEN DRASS, PETER AITKEN,
SCOTT BENTON, ANDREW STAFFORD,
JASON H. BATES, and JOHN SCHNYER,
Defendants.

C.A. No. 04-11854 JLT

U.S. DISTRICT COURT
DISTRICT OF MASS

**DEFENDANTS' MOTION TO DISMISS THE PLAINTIFF'S CLAIMS AGAINST
THE DEFENDANT, JASON H. BATES, PURSUANT TO FED.R.CIV.P. 12(b)(6)**

NOW COME the defendants in the above-captioned matter and respectfully request that this Honorable Court dismiss the plaintiff's claims asserted against the defendant, Jason H. Bates, for failure to state a claim upon which relief may be granted, pursuant to Fed.R.Civ.P. 12(b)(6). As grounds for this Motion, the defendants state as follows:

The plaintiff, William Norton, has brought this case alleging causes of action for civil rights violations, conspiracy, false imprisonment, malicious prosecution, negligence and intentional infliction of emotional distress arising from the plaintiff's arrest by Town of Whitman police officers on or about June 5, 2004 on charges of possession of stolen property in violation of M.G.L. c. 266, § 60A. The defendants deny all such allegations and assert that there was probable cause for the plaintiff's arrest.

In his Complaint, the plaintiff has alleged certain facts pertaining to his arrest against all individual defendants, except for the defendant, Jason H. Bates. In that the plaintiff has failed to assert any factual bases for his claim against the defendant, Jason H. Bates, the plaintiff has

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failed to state a claim against this defendant upon which relief may be granted.

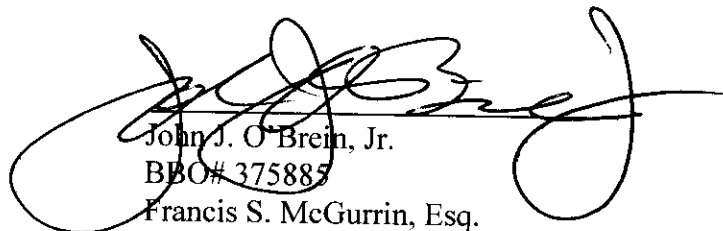
WHEREFORE the defendants respectfully request that this Honorable Court dismiss the plaintiff's claims against the defendant, Jason H. Bates, pursuant to Fed.R.Civ.P. 12(b)(6), for failure to state a claim upon which relief may be granted.

"REQUEST FOR ORAL ARGUMENT."

Certificate of Local Rule 37.1

I, John J. O'Brien, Jr., attorney for the defendants, hereby certify that the provisions of Local Rule 37.1 have been complied with.

Respectfully submitted,
By the defendants,
Town of Whitman, James Stone, Jr.,
Matthew Poore, Stephen Drass, Peter
Aitken, Scott Benton, Andrew Stafford,
Jason H. Bates, and John Schnyer,
By their attorneys,



John J. O'Brien, Jr.

BBO# 375885

Francis S. McGurrin, Esq.

BBO# 630847

O'Brien & von Rosenvinge

27 Mica Lane, Suite 202

Wellesley, MA 02481

(781) 239-9988

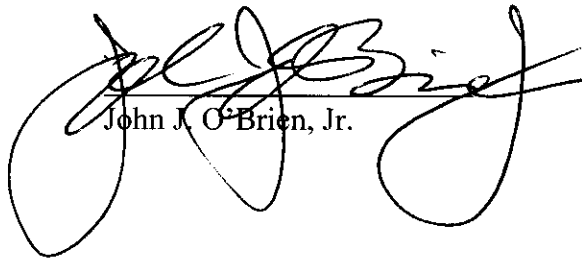
DATED:

9/15/4

CERTIFICATE OF SERVICE

I, John J. O'Brien, Jr., attorney for the defendants hereby certify that on the 15th day of September, 2004, a true copy of Defendants' Motion to Dismiss Plaintiff's Claims against the defendant, Jason H. Bates, pursuant to Fed.R.Civ.P. 12(b)(6), was forwarded by first class mail, postage pre-paid, to the following counsel of record:

Robert S. Sinsheimer, Esq.
Susan E. Sivacek, Esq.
Sinsheimer & Associates
Four Longfellow Place, Suite 3501
Boston, MA 02114-9505



John J. O'Brien, Jr.